

IC 34-17-3

Chapter 3. Judgment, Costs, and Enforcement

IC 34-17-3-1

Contest for office; judgment

Sec. 1. In every case contesting the right to an office, judgment shall be rendered upon the rights of the parties, and for any damages the relator shows the relator is entitled to, to the time of the judgment.

As added by P.L.1-1998, SEC.12.

IC 34-17-3-2

Judgments in favor of relator; proceedings; filling public office vacancy under IC 5-8-6

Sec. 2. (a) If judgment is rendered in favor of a person who claims to be the person entitled to hold the office:

(1) that person shall proceed to exercise the functions of the office after the person has been qualified, as required by law; and

(2) the court shall order the defendant to deliver all the funds and records in the custody or within the power of the defendant, belonging to the office from which the defendant has been removed:

(A) to the person entitled to hold the office; or

(B) if a vacancy results, to the court to hold until a person is selected under subsection (b) to fill the vacancy.

(b) This subsection applies whenever:

(1) the court renders a judgment under subsection (a) that an individual holding a public office (as that term is used in IC 34-17-1-1) is not entitled to hold that office; and

(2) a vacancy occurs in that office as the result of the court's judgment.

The court must file a certified copy of the judgment with the person who is entitled under IC 5-8-6 to receive notice of the death of an individual holding the public office. The person receiving the copy of the judgment must give notice of the judgment in the same manner as if the person had received a notice of the death of the officeholder under IC 5-8-6. The person required or permitted to fill the vacancy that results from a removal under this section must comply with IC 3-13 or IC 20, whichever applies, to fill the vacancy.

As added by P.L.1-1998, SEC.12. Amended by P.L.119-2005, SEC.34.

IC 34-17-3-3

Refusal of defendant to deliver books and papers; enforcement by attachment and imprisonment

Sec. 3. If the defendant refuses or neglects to deliver the books and papers, pursuant to the order, the court or judge shall enforce the order by attachment and imprisonment.

As added by P.L.1-1998, SEC.12.

IC 34-17-3-4

Damages

Sec. 4. (a) This section applies to a judgment rendered in favor of the plaintiff.

(b) If the plaintiff did not claim damages in the information, the plaintiff may file an action for the damages at any time within one (1) year after the judgment.

As added by P.L.1-1998, SEC.12.

IC 34-17-3-5

Judgment or exclusion from office, franchise, or corporate rights; dissolution of corporation

Sec. 5. (a) This section applies whenever:

(1) a person is found guilty of usurping, intruding into, or unlawfully exercising:

(A) an office or a franchise within Indiana; or

(B) an office in a corporation created by the authority of this state;

(2) a public officer thus charged is found guilty of having done or suffered an act which, by law, works a forfeiture of the office; or

(3) an association or number of persons is found guilty of having acted as a corporation, without having been legally incorporated.

(b) The court shall give judgment of ouster against the defendant and:

(1) exclude the defendant from the office, franchise, or corporate rights;

(2) in cases of corporations, dissolve the corporation; and

(3) adjudge costs in favor of the plaintiff.

As added by P.L.1-1998, SEC.12.

IC 34-17-3-6

Execution or attachment against directors or officers of corporations

Sec. 6. (a) If judgment is rendered against a corporation or against any persons claiming to be a corporation, the court may cause the costs to be collected:

(1) by execution against the persons claiming to be a corporation; or

(2) by attachment against the directors or other officers of the corporation.

(b) In addition, the court shall:

(1) restrain the corporation;

(2) appoint a receiver of the corporation's property and effects;

(3) take an account; and

(4) make a distribution of property among the creditors.

(c) The prosecuting attorney shall immediately institute proceedings for these purposes.

As added by P.L.1-1998, SEC.12.

IC 34-17-3-7**Liability for costs**

Sec. 7. When an information is filed by the prosecuting attorney, the prosecuting attorney is not liable for costs. However, when an information is filed upon the relation of a private person, the private person is liable for costs, unless the costs are adjudged against the defendant.

As added by P.L.1-1998, SEC.12.